

Ronald H. Freshman, Esq. (SBN 225136)

Kimberly Cromwell, in pro per c/o

LAW OFFICES OF RONALD H. FRESHMAN

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San Pedro, CA 90731

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Kimberly Cromwell, pro per

Ronald H. Freshman, Associated Attorney for Kimberly Cromwell; Attorney for William Paatalo

UNITED STATES DISTRICT COURT

NORTHERN CALIFORNIA

KIMBERLY CROMWELL; WILLIAM
PAATALO,

Plaintiffs,

v.

CERTIFIED FORENSIC LOAN
AUDITORS, LLC; ANDREW P.
LEHMAN, AND DOES 1 THROUGH 10
INCLUSIVE,

Defendants.

Case No.: 4:17-cv-02429-DMR
Hon. Judge Donna M. Ryu

**DECLARATION OF KIMBERLY
CROMWELL IN SUPPORT
RESPONSE TO COURT'S ORDER
TO SHOW CAUSE AS TO WHY
MATTER SHOULD NOT BE
DISMISSED**

I, Kimberly Cromwell, declare as follows:

1. I am a Certified Paralegal and work as a Sr. Contract Paralegal. I have 9 years' experience and am knowledgeable about the Federal Rules of Civil Procedure.

2. I have personal knowledge of the facts stated herein, except as to those matters stated upon information and belief, which I believe to be true, and if called to testify thereon, can competently do so.

3. I am and have always represented that I have filed and prosecuted this claim in pro per. Mr. Freshman is associated with me so the court is aware that while I

1 am in pro per, I do seek the guidance and advice of an attorney. He also makes special
2 appearances on my behalf.

3 4. I have not at any time, hired or retained Mr. Freshman to represent me in
4 this matter as my attorney, and up until after the defaults were entered against the
5 defendants, the Court recognized I was and am in pro per. This is evidenced by the
6 certificate of services in Doc. ## 8, 13, 29 and 30. (A true and correct copy of each item
7 is attached herein as Exhibits 1-4) I have also received other correspondence from the
8 Court at my designated address.

9 5. There is no record of Mr. Freshman being substituted in as my counsel. I
10 have not requested that I receive service other than at my address and I have no idea why
11 the court stopped noticing me. Further, even if the Court were to notice me through Mr.
12 Freshman, that requires that I receive actual notice at Mr. Freshman's address, which has
13 not happened.

14 6. I did listen to the hearing on August 30, 2018 from which it was my
15 understanding Mr. Lehman's request to set aside the default as to him, was granted.
16 However, several months later, in October, we received a notice from the Court that the
17 hearing was going to be held. I called the court clerk, who was confused. Mr. Freshman
18 then had me draft a letter, which he then reviewed, approved and served on the Court
19 and all parties. This letter asked for clarification of what the court was doing. (A true
20 and correct copy is attached herein as Exhibit 5)

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1 7. I have been prejudiced and harmed by the Court's failure to notice me of
2 the Magistrates Report and Recommendations and dispute that the motion for default
3 judgment should be decided as to Mr. Lehman as moot, and further dispute her findings
4 as to Plaintiffs damages. Therefore, I respectfully request 10 days to prepare an
5 objection to the findings and recommendations as set forth therein.

6 I declare under the penalty of perjury of the laws of the United States the foregoing
7 is true to the best of my knowledge and belief.

8 Date: February 20, 2019

/s/Kimberly Cromwell

KIMBERLY CROMWELL

EXHIBIT ONE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
1301 Clay Street
Oakland, CA 94612

www.cand.uscourts.gov

Susan Y. Soong
CLERK OF COURT

GENERAL COURT NUMBER
510-637-3530

May 31, 2017

Kimberly S. Cromwell

1811 Anastasia Drive
Brentwood, CA 94513

Ronald Henry Freshman

3040 Skycrest Drive
Fallbrook, CA 92028

Re: Kimberly S. Cromwell, et al. v. Certified Forensic Loan Auditors

Case Number: [4:17-cv-02429-DMR](https://www.cand.uscourts.gov/cases/4:17-cv-02429-DMR)

Dear Counsel/Parties:

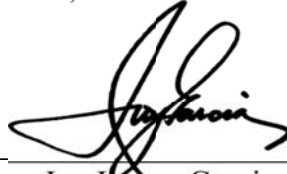
This matter has been randomly assigned to United States Magistrate Judge Donna M. Ryu for all purposes including trial.

The magistrate judges of this district have been designated to conduct any and all proceedings in a civil case including a jury or nonjury trial and to order the entry of a final judgment, upon the consent of all parties.

A reminder to file either a consent form or a declination form to proceed before a United States Magistrate Judge was sent to Plaintiffs on May 15, 2017. A review of our records discloses that the Consent or Declination to Magistrate Judge Jurisdiction has not been filed in this case. Plaintiffs are requested to complete the attached form documenting either consent or request for reassignment and file or e-file it with the Court by June 14, 2017. Please note that any party is free to withhold consent to proceed before a magistrate judge without adverse substantive consequences. This form can be found on the Court's website at www.cand.uscourts.gov.

Susan Y. Soong

Clerk, United States District Court



Ivy Lema Garcia, Deputy Clerk to the
Honorable DONNA M. RYU

United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KIMBERLY S. CROMWELL, et al.,

Plaintiffs,

v.

CERTIFIED FORENSIC LOAN
AUDITORS, et al.,

Defendants.

Case No. [4:17-cv-02429-DMR](#)

**CONSENT OR DECLINATION
TO MAGISTRATE JUDGE
JURISDICTION**

INSTRUCTIONS: Please indicate below by checking **one** of the two boxes whether you (if you are the party) or the party you represent (if you are an attorney in the case) choose(s) to consent or decline magistrate judge jurisdiction in this matter. Sign this form below your selection.

☐ **Consent to Magistrate Judge Jurisdiction**

In accordance with the provisions of 28 U.S.C. § 636(c), I voluntarily **consent** to have a United States magistrate judge conduct all further proceedings in this case, including trial and entry of final judgment. I understand that appeal from the judgment shall be taken directly to the United States Court of Appeals for the Ninth Circuit.

OR

☐ **Decline Magistrate Judge Jurisdiction**

In accordance with the provisions of 28 U.S.C. § 636(c), I **decline** to have a United States magistrate judge conduct all further proceedings in this case and I hereby request that this case be reassigned to a United States district judge.

DATE:

NAME:
COUNSEL FOR:
(OR "PRO SE:)

Signature

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KIMBERLY S. CROMWELL, et al.,
Plaintiffs,

v.

CERTIFIED FORENSIC LOAN
AUDITORS, et al.,
Defendants.

Case No. [4:17-cv-02429-DMR](#)

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on May 31, 2017, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Kimberly S. Cromwell
1811 Anastasia Drive
Brentwood, CA 94513

Dated: May 31, 2017

Susan Y. Soong
Clerk, United States District Court



By: _____
Ivy Lerma Garcia, Deputy Clerk to the
Honorable DONNA M. RYU

EXHIBIT TWO

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KIMBERLY S. CROMWELL, et al.,

Plaintiffs,

v.

CERTIFIED FORENSIC LOAN
AUDITORS, et al.,

Defendants.

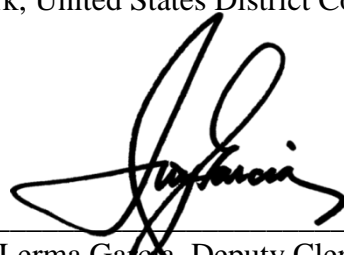
Case No. [4:17-cv-02429-DMR](#)

**CLERK'S NOTICE RE: CASE
MANAGEMENT CONFERENCE
STATEMENT**

Pursuant to the Order Setting Initial Case Management Conference and ADR Deadlines [Docket No. 4], the Case Management Conference Statement was due to be filed by July 26, 2017. No Case Management Conference Statement has been filed. The Case Management Conference Statement must be filed **by no later than 5:00 p.m. P.S.T. on July 28, 2017.**

Dated: July 27, 2017

Susan Y. Soong
Clerk, United States District Court

By: 
Ivy Lerma Garcia, Deputy Clerk to the
Honorable DONNA M. RYU

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KIMBERLY S. CROMWELL, et al.,
Plaintiffs,
v.
CERTIFIED FORENSIC LOAN
AUDITORS, et al.,
Defendants.

Case No. [4:17-cv-02429-DMR](#)

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on July 27, 2017, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Kimberly S. Cromwell
1811 Anastasia Drive
Brentwood, CA 94513

Dated: July 27, 2017

Susan Y. Soong
Clerk, United States District Court

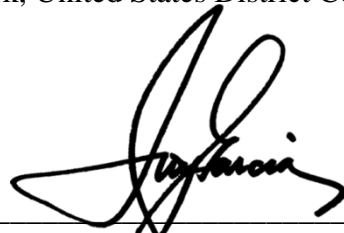
By: 
Ivy Lerma Garcia, Deputy Clerk to the
Honorable DONNA M. RYU

EXHIBIT THREE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KIMBERLY S. CROMWELL, et al.,

Plaintiffs,

v.

CERTIFIED FORENSIC LOAN
AUDITORS, et al.,

Defendants.

Case No.17-cv-02429-DMR

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 11/28/2017, I SERVED a true and correct copy(ies) of the attached "Clerk's Notice of Entry of Default", by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Kimberly S. Cromwell
1811 Anastasia Drive
Brentwood, CA 94513

Dated: 11/28/2017

Susan Y. Soong
Clerk, United States District Court

By: V Kyono
Valerie Kyono, Deputy Clerk to the
Honorable DONNA M. RYU

EXHIBIT FOUR

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KIMBERLY S. CROMWELL, et al.,

Plaintiffs,

v.

CERTIFIED FORENSIC LOAN
AUDITORS, et al.,

Defendants.

Case No.17-cv-02429-DMR

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 11/28/2017, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Kimberly S. Cromwell
1811 Anastasia Drive
Brentwood, CA 94513

Dated: 11/28/2017

Susan Y. Soong
Clerk, United States District Court

By: Valerie Kyono
Valerie Kyono, Deputy Clerk to the
Honorable DONNA M. RYU

EXHIBIT FIVE

Law Office of
Ronald H. Freshman, Esq.

222 West 6th Street, Suite 400
San Pedro, CA 90731
Office 858.756.8288
Fax 858.964.1728
rhf@freshmanlaw.com

October 10, 2018

Hon. Magistrate Donna Ryu
U.S. DISTRICT COURT - Northern Division
Courtroom 4, 3rd Floor
1301 Clay Street
Oakland, CA 94612

RE: Cromwell v. Certified Forensic Loan Auditors, et al.
Case No. 4:17-cv-02429-DMR

Honorable Magistrate Ryu,

On July 19, 2018, Andrew Lehman filed a Motion to Set Aside Default as to Mr. Lehman. (Docket #36) On August 30, 2018 the Court held a hearing on Mr. Lehman's motion, in which I appeared on behalf of Plaintiffs, and Mr. Lehman appeared in pro per. It was my understanding at that hearing, this Court granted the motion to set aside the default, specifically to Mr. Lehman. The Court indicated a written order was to follow and that the Court granted Mr. Lehman permission to appear telephonically at the Plaintiff's Motion for Default Judgment as to Certified Forensic Loan Auditors, as a courtesy to Mr. Lehman. (Docket #61 referencing Docket #40) However no order on setting aside the default and instructing Mr. Lehman to file a responsive pleading was forthcoming, only the order allowing Mr. Lehman to attend the Default Judgment hearing.

On September 10, 2018, the Court continued the Motion for Default Judgment, setting the new hearing date for October 11, 2018. There is no mention of Mr. Lehman's Motion to Set Aside the Default Judgment. (Docket #62)

On October 4, 2018, the Court continued the Motion for Default Judgment to November 8, 2018, but this time also stated the hearing on Mr. Lehman's motion to Set Aside the Default Judgment is being set for November 8, 2018.

This is confusing. I therefore respectfully request the Court to clarify if a verbal order had in fact issued on August 30, 2018, setting aside the default. And if so, that the attached [PROPOSED] Order be signed and Mr. Lehman be instructed to respond. Given the length of time that Mr. Lehman has been aware of the Complaint, we had asked for the time to respond be 10 days; Mr. Lehman responded that he needed 30 days as he is seeking counsel. Though arguably, he has had since August 30, 2018 and this seems like another delay tactic.

If no decision was made on August 30, 2018, then please clarify that no decision was actually made and if you expect the parties to continue to argue the Motion to Set Aside the Default as to Mr. Lehman.

Respectfully submitted,

LAW OFFICES OF RONALD H. FRESHMAN



RONALD H. FRESHMAN

Attorney for William J. Paatalo;

Associated Attorney for Kimberly Cromwell, in pro per

Cc: Kimberly Cromwell
William J. Paatalo

ANDREW P. LEHMAN
94 Bayou Lane
Kemah, Texas 77565
andrew@certifiedforensicloanauditors.com
Plaintiff, *pro se*

Certified Forensic Loan Auditors
2600 South Shore Blvd., Number 300
League City, Texas 77573 (mail)

CERTIFICATE OF SERVICE

USDC Northern District Case No.: 4:17-cv-02429-DMR

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 222 West 6th Street, Suite 400, San Pedro, CA 90731. On February 20, 2019, I served the foregoing document described as **DECLARATION OF KIMBERLY CROMWELL IN SUPPORT RESPONSE TO COURT'S ORDER TO SHOW CAUSE AS TO WHY MATTER SHOULD NOT BE DISMISSED** on the interested parties in this action.

X **BY CM/ECF NOTICE OF ELECTRONIC FILING:** I caused said document(s) to be served by means of this Court's electronic transmission of the Notice of Electronic Filing to the parties and/or counsel who are registered CM/ECF users, set forth in the service list obtained from this Court:

ANDREW P. LEHMAN

94 Bayou Lane

Kemah, Texas 77565

andrew@certifiedforensicloanauditors.com

Plaintiff, *pro se*

X **BY UNITED STATES MAIL:** I am "readily familiar" with the practice of collection and processing correspondence for mailing. Under that practice, it would be deposited in a box or other facility regularly maintained by the United States Postal Service with First-Class postage thereon fully prepaid that same day at San Pedro California, in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Certified Forensic Loan Auditors, LLC

ATTN: EDGAR B PEASE, III

13101 W. Washington Blvd., Suite 444

Los Angeles, CA 90066

X (Federal) I declare that I am employed in the office of a member of the Bar of this Court, at whose direction the service was made.

Executed on February 20, 2019, at San Pedro, California.

/s/ Melissa Alvarez

MELISSA ALVAREZ